

MINUTES
MICHIGAN STATE TRANSPORTATION COMMISSION MEETING
March 30, 2006
Lansing, Michigan

Meeting noticed in accordance with Open Meetings Act, Public Act 267 of 1976.

Present: Ted Wahby, Chairman
 Maureen Miller Brosnan, Commissioner
 Vincent J. Brennan, Commissioner
 James S. Scalici, Commissioner

Also Present: Kirk Steudle, Director
 Jackie Shinn, Chief Deputy Director
 Leon Hank, Chief Administrative Officer
 Frank E. Kelley, Commission Advisor
 Marneta Griffin, Executive Assistant
 Jerry Jones, Commission Auditor
 Patrick Isom, Attorney General, Transportation Division
 John Friend, Bureau Director, Highway Delivery
 John Polasek, Bureau Director, Highway Development
 Larry Tibbits, Chief Operations Officer
 Myron Frierson, Finance and Administration
 Tim Hoeffner, Administrator, Intermodal Policy
 Bill Shreck, Director, Office of Communications

Excused: Linda Miller Atkinson, Vice Chairwoman
 James R. Rosendall, Commissioner

A list of those people who attended the meeting is attached to the official minutes.

Chairman Wahby called the meeting to order at 10:20 a.m. in the Bureau of Aeronautics Commission Conference Room in Lansing, Michigan.

I. **APPOINTMENTS**

Chairman Wahby welcomed our newly appointed Director, Kirk T. Steudle, and our newly appointed Chief Deputy Director, Jacqueline G. Shinn.

II. **COMMISSION BUSINESS**

Commission Minutes

Chairman entertained a motion for approval of the minutes of the State Transportation Commission meeting of February 23, 2006.

Moved by Commissioner Brosnan, with support from Commissioner Scalici, to approve the minutes of the Commission meeting of February 23, 2006. MOTION CARRIED.

III. **DIRECTOR'S REPORT – DIRECTOR STEUDLE**

Director Steudle gave the bulk of his report during the joint meeting between the Michigan Aeronautics Commission (MAC) and State Transportation Commission (STC) earlier this morning. This report, however, focused on:

Construction Quality Partnership

This is an initiative that started in early 2003. The objective was to partner with various industry groups for the development of meaningful warranties for highway construction projects. There was agreement that there is a need to improve the quality of highway construction projects that are built in Michigan and a need to increase the number of persons focusing on warranties and quality.

In 2004 a Strategic Forum on Quality and Warranties was held where about 70 participants from industry and all levels of government (federal, state, county, and city) attended. This resulted in recommendations about warranties, design, and the contracting process. Teams were formed and the recommendations are being implemented.

In late 2004 meetings were held about establishing a partnership to focus on improving quality in highway design and construction. At the conclusion of these meetings it was determined that focusing on training is the first step. Joint training programs are now being developed and piloted by industry and government from all levels, i.e., owner agencies and contractor workforce, corporate/executive management, project engineering/management, labor/inspection personnel. The longer term focus will be on continuous improvement of the State Transportation System. This will involve continual reviews and identification of opportunities for improvement, constructability reviews, post construction reviews, and recommendations for research and development of new technologies. The results will show fewer incidents of early construction failures, increased confidence of the public, and a transportation system that enhances economic growth in Michigan and an improved quality of life.

At the April 27th Commission meeting there will be a longer presentation on this as well as the Signing of the Construction Quality Partnership Charter. When we sign this charter, we will apply for what is called Tier-1 Status in the country for the National Quality Highway Partnership. This is significant in that not many other State DOTs have gotten to this point; this is a national initiative and Michigan is really leading the way in quality and highway partnerships. This signing will involve ACEC, APAM, CRAM, FHWA, MAPA, MCPA, MITA, MRPA and MDOT. The MDOT co-chairs are Larry Tibbitts and John Friend.

Local Jobs Today

On March 7, 2006, Governor Granholm announced the *Jobs Today Initiative* and our intention to help stimulate the economy and provide jobs by accelerating construction of local transportation projects, and leveraging available federal funding. We have worked hard to put in place our program, which we feel will have a significant positive impact on the state's economy. We feel more can be done. Particularly at the local level, where we

have an opportunity to leverage a significant amount of federal funding that holds the potential of putting more people to work while improving our system.

We are proposing an extension of the *Jobs Today* program that produced the Greenlight projects. This *Local Jobs Today* package works in a similar fashion by attempting to accelerate work where possible and by putting all available federal funding to work.

The *Local Jobs Today* package consists of both a grant (\$80 million Local Federal Fund Program) and loan program (\$320 million Advance Construct Local Loan Program). The grant program is intended to provide the funding necessary to match federal aid. While the loan program is designed to advance anticipated federal funding to ensure that they have the resources to cover that share of project costs. We recognize that most local agencies lack the resource to take advantage of the federal advance construction program so this is an important piece of the package because the funding for projects earmarked in SAFETEA-LU is only available in five annual installments over the period 2005-09.

The *Local Jobs Today* package targets: road and bridge projects earmarked in SAFETEA-LU (they are found in section 1702 (high priority projects) and section 1934 (transportation improvement projects) of SAFETEA-LU; projects included in the STIP for construction in 2007 that can be advanced to 2006; projects included in the STIP for construction in 2008 that can be advanced to 2007; any earmarked transit project (from section 3044 of SAFETEA-LU) that is not for the purchase or replacement of buses.

Some additional criteria each project must satisfy include: must be for construction or construction engineering (Not only must the project create jobs, but it also must improve our transportation system today. This would exclude projects for studies and ROW acquisitions); dirt must fly in either 2006 or 2007; the amount of the grant is limited to only what is required to obtain all available federal aid for the project; project costs that exceed the federal funding and state match must be covered by the local agency and must be identified prior to being considered for the assistance under this program.

The Governor announced her plans for the *Local Federal Match Program* on Tuesday, March 7th. This bill was introduced to the legislature. Senator Prusi is the sponsor of this bill. Contact your Legislator and urge them to pass this will as written in order not to lose the 2006 construction season.

We will be looking to CRAM, MML and MPTA to get a list of viable projects that are ready to go. When we have this list, we will review it to ensure that each project meets the eligibility criteria; then the investments can begin.

Mr. Steudle asked for questions.

Commissioner Brennan asked, regarding the interest payment by the local government, if the principal were also an obligation of the local government.

Mr. Steudle answered that this would only be advancing the federal dollars that are coming during the "out years"; therefore the principal is paid when those federal dollars come through.

Commissioner Brosnan asked, given the best case scenario that this legislatively moves ahead, when we could expect to see these projects.

Mr. Steudle answered there are a number of projects that are already designed and identified to us as ready-to-go. We should probably see these by early to mid summer (July letting); this is provided that the legislation is passed soon. We wanted it before the spring break but it doesn't look like that will happen. The final package has to be put together and put into the system to be advertised.

Ms. Shinn interjected that it is particularly critical for the UP delegation because they have such a short construction season.

Commissioner Scalici asked what the interest rate will be.

Mr. Frierson answered that a short term note will be done for the advancement of the federal aid and those rates will be between 3.5%-4.5%, depending on where the market is at that time. The long term portion will be between 4.5%-5.5%. If we do the entire \$80 million; we are looking at a debt service amount of about \$7 million per year.

No other questions were forthcoming.

IV. **RESOLUTIONS**

Resolution of the State Transportation Commission Authorizing the Issuance and Sale of State of Michigan Comprehensive Transportation Bonds, Series 2006 – Myron Frierson
Public Act 680 of 2002 effective March 31, 2003, provided funding to the Airport Safety and Protection (ASAP) program with an annual allocation of \$6 million from airport parking taxes to support airport improvements and debt service on up to \$60 million in bonds. In April 2003, the State Transportation Commission (STC) approved the issuance of \$24 million in bonds for the ASAP program. These bonds were issued in July 2003. Since the State Aeronautics Fund does not have authority to issue bonds, ASAP related bonds were issued using the Comprehensive Transportation Fund (CTF) as credit. A portion of the annual allocation of parking tax pays the debt service on ASAP related bonds minimizing the impact on the CTF.

This month the department is requesting STC approval to issue the remaining \$36 million of ASAP bonds. Accompanying the intent to bond resolution is a list of projects to be financed by these bonds which will improve the safety of airports in Michigan. The resolution would also allow the department to pursue CTF bond refunding opportunities if market conditions are appropriate for any outstanding CTF bonds.

Upon approval by the Commission, this resolution will be transmitted to the Legislature for the required 30-day notification period.

Mr. Frierson asked for questions and approval of this resolution.

Commissioner Brennan asked, for clarification, if this debt service comes straight from proceeds from the airports.

Mr. Frierson responded “yes”; there is a dedicated airport parking tax from the Detroit Metro Airport which amounts to \$6 million per year. This money can be used to pay the debt service on bonds. The legislature authorized up to \$60 million to be issued within 5 years of the enactment of the legislation.

Commissioner Brennan then asked, for clarification, if this is the remaining \$36 million.

Mr. Frierson answered “yes”.

Commissioner Brennan further asked, regarding the list of projects that is attached to the resolution, what the process was to bring these projects front and center to be done.

Mr. Frierson answered that the individual airports have a five year plan. This list represents a consolidation of some key projects from those five year plans.

Commissioner Brosnan disclosed to the Commission, under the advice of MDOT’s legal council, that even though it is appropriate for her to vote on this issue, that her husband is the Director of Willow Run Airport; this airport appears on the list of bond projects. Commissioner Brosnan stressed that her vote is for making sure that the \$36 million in bonds can be issued; not for the list of appropriations, which is disseminated by the Michigan Aeronautics Commission of which she has no voting powers.

No other questions were forthcoming.

Chairman Wahby entertained a motion to approve the Resolution of the State Transportation Commission Authorizing the Issuance and Sale of State of Michigan Comprehensive Transportation Bonds, Series 2006. Motion was made by Commissioner Brennan and supported by Commissioner Scalici to approve the resolution. Mr. Kelley called the roll; all answers were affirmative. Motion carried on a unanimous roll call vote.

Resolution of the State Transportation Commission of the State of Michigan Amending the Project List Attached to a Previously Adopted Commission Resolution – Myron Frierson

At the State Transportation Commission meeting on January 26, 2006, the Commission approved a resolution entitled “Resolution of the State Transportation Commission of the State of Michigan Indicating the Intention of the State Transportation Commission to Amend the Project List Attached to a Previously Adopted Commission Resolution.”

The approved resolution authorized the notice of revision of the project list previously attached to the Resolution of the State Transportation Commission Authorizing the Issuance and Sale of State of Michigan State Trunk Line Fund Bonds, Series 2004; this resolution finalizes the changes to the project list.

Mr. Frierson asked for questions and approval of this resolution.

Commissioner Brennan asked what the process was to create the project list that is attached to this resolution.

Mr. Frierson answered that it was part of the Five Year Program from 2004. The department came to the Commission with approximately \$633 million in projects. From that they received authorization to bond up to \$460 million. In 2004 they bonded for \$185 million, and later this year they will be bonding for \$260. This is the project list that they will use those proceeds for. Typically a project list has more projects than they actually bond for in order to give them some flexibility. Over the course of the last couple years there have been changes in the projects—scope of the project may have changed so that the dollar requirement for the project may go up or down—or there may be new projects they want to add to the list and take others off because there has been other available funding for them. In addition there is a required 30-day notification period for the Legislature.

Mr. Steudle interjected that this list is consistent with the Five Year Program.

No other questions were forthcoming.

Chairman Wahby entertained a motion to approve the Resolution of the State Transportation Commission of the State of Michigan Amending the Project List Attached to a Previously Adopted Commission Resolution. Motion was made by Commissioner Brosnan and supported by Commissioner Scalici to approve the resolution. Mr. Kelley called the roll; all answers were affirmative. Motion carried on a unanimous roll call vote.

V. **OVERSIGHT**

Commission Agreements (Exhibit A) – Myron Frierson

Mr. Frierson stated that information on all projects and agreements were given for review. Pending any questions, Mr. Frierson asked for approval of Exhibit A.

Commissioner Brosnan noted that in each description for Items 18 through 26 (Multi-Modal), it is very easy to see where the dollars are being spent and where they are going towards increasing or maintaining jobs in Michigan. We might be able to do something similar to this for the other items that are also described.

No other questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve Exhibit A. Motion carried on a unanimous voice vote.

Bid Letting Pre-Approvals (Exhibit A-1) – Myron Frierson

Mr. Frierson first gave a brief re-cap of the March letting. This was a record setter for the department. Prior to that the highest numbers for projects was 125 in June 2003; March had 135. Of the total 135 projects let, there were 89 state projects with total engineers' estimates of \$193.4 with total low bids of \$180.8 million. Through the first six months of this year, 86.4% and 95.2% of the planned number of projects and dollar amounts, respectively, have been let.

Before the Commission for approval are bid items for the April letting. There are 19 state projects with engineers' estimates totaling \$44.5 million—12 of these items have warranties. Pending any questions, Mr. Frierson asked for approval of the bid items for the April letting in Exhibit A-1.

Mr. Steudle interjected that it is the departments' contention to continue to get 90% of the projects out by March of each year so that they are done in the first six months. It is also our desire and commitment to spread those out so that we get more of those back into the December, January, and February letting to take this peak off. A lot of what is shown is related to the changes we've had in the program, i.e., the ups and downs when we add projects in. The other piece was one major capacity project—the Gateway Project; going through some difficult times in the design process to get it to final construction. It was originally set in different years, and as we moved that, it was a big chunk of dollars that skews the program as well

No questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Brennan to approve the March bid letting. Motion carried on a unanimous voice vote.

Letting Exceptions Agenda (Exhibit A-2) – John Polasek

Mr. Polasek reported on six items—five state and one local—that were 10% over the estimates which are accompanied by justification memos. One project, however, is a low bid rejection which turned out to have a single bidder. Pending any questions, Mr. Polasek asked for approval of Exhibit A-2.

No other questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Scalici to approve Exhibit A-2. Motion carried on a unanimous voice vote.

Information Items (Exhibit A-3) – Myron Frierson

Mr. Frierson stated that these items are included for information purposes only. Two projects are listed (under \$500,000); both with one bidder; one that was under the engineers' estimate by 12%, and the other slightly over by .07%.

There is no action required.

Chairman Wahby asked for questions; none were forthcoming.

Bid Letting Not Pre-Approved (Exhibit A-4) – Myron Frierson

Mr. Frierson stated that this exhibit is for approval of an item (one state project) that was not included in the February Pre-Approval List.

Chairman Wahby asked if there were any questions from the Commission; none were forthcoming.

Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to accept Exhibit A-4. The motion carried on a unanimous voice vote.

Contract Adjustments (Exhibit B) – John Friend

Mr. Friend brought to the Commissions' attention a serious sinkhole problem that we have within the project limits of our on-going M-39 bridge corridor project in Dearborn and Detroit. Two times over the last year we have pumped flowable fill at this location once we noticed pavement settlement. We have found voids between 6 to 8' deep at various times during the investigation of this issue. We have subsequently found that there is a 10' diameter abandoned Detroit Water and Sewer Department (DWSD) that may be sucking fill from underneath the lanes of M-39 (Southfield freeway). We have noticed more settlement recently and believe we need to get this repaired as soon as possible. This investigation and repair will cause the freeway to be closed for a minimum of a weekend and possibly longer. To add even more complexity to this problem, this location is adjacent to Ford Motor Company World Headquarters.

We have run through a couple of alternatives, with the most viable (control of time of closure, assurance of proper repair, cost control, no conflict with existing contract) being adding an Extra to our existing contract with Posen Construction to make this repair during one of their scheduled freeway closures for bridge work in the immediate area. Other alternatives put our fate in the hands of DWSD or could possibly create a contractual nightmare with an emergency contractor working in the midst of Posen's existing work zone and progress schedule.

The total estimated cost for the extra work is \$553,000.

Mr. Friend did not ask for approval of this Extra at this time (which will come at some future point), however asked the Commission to conceptually agree with the department that this is the vehicle they will use to make the repair. Further, there will be future discussions with DWSD to determine whose facility caused the roadway settlement.

No questions were forthcoming.

Mr. Friend walked on Extra Item #2006-50—construction of a one span pre-cast concrete I-beam bridge, on Edgewater Drive over the Paw Paw River, in Berrien County. The local agency switched from reinforced concrete to non-reinforced concrete post award and as a result of MDOT adopting a plain concrete standard. For unknown reasons, the contract mod didn't get to Lansing until late February (too late for March Commission

using the regular process). The net result is a project savings but since one item is being deleted and an extra added, the extra is fairly significant. The project is in the Southwest region and was done last year.

Exhibit B includes 11 MDOT projects and 6 local agency projects. For the month of February we finaled out at \$56 million worth of work, and we are within 1% of what we had originally bid that at. Overall, for the fiscal year-to-date we still remain under budget. Pending any questions, Mr. Friend asked for approval of Exhibit B.

Commissioner Brennan asked for the highlights on Item #2006-38.

Mr. Friend explained that this is M-84 in Bay County, directly in front of Saginaw Valley State University. This project is built in an area of fairly poor soils, and there was a significant amount of real estate to be acquired through this area. Through the real estate condemnation phase, there has been a lot of discussion with the major property holder who thought we were going to flood his property. The roadway was going to be raised a fair amount of distance from where it originally was. There is some possible legitimacy to his argument; however the real estate condemnation phase took place after the project had started. Even though there is about \$280,000 worth of work here, our Real Estate Division and Region staff feel that it's appropriate, and that through the condemnation process, our cost may have even been higher. This was not in the original project because we got the go-ahead to move forward knowing that there were aspects to be worked out.

In terms of the \$170,000 in swamp back-fill that had to be put in, there was a significant amount of soil borings through the area. They found, at the beginning of construction, that the water table was higher than they anticipated. As they put the clay in, it became saturated quite quickly. For a more appropriate fix sand was used to replace the clay. Again, this was an instance where the real estate condemnation took place after the project had started.

No other questions were forthcoming.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brennan and supported by Commissioner Brosnan to approve Exhibit B. Motion carried on a unanimous voice vote.

Six Month Financial Audit Follow-up Report (Exhibit C) – Jerry Jones

Mr. Jones stated that this report provides the details on audits of contract projects that have been outstanding over 120 days since being issued. This report contains 26 audits, with approximately \$868,000 in net recommended adjustments. As the report comments indicate, the Department is working with the audited entities and our Office to address the audits and close them out.

Mr. Jones recommended that the Commission accept this report and asked for questions; none were forthcoming.

Mr. Jones then called on Commissioner Brosnan for her response.

Commissioner Brosnan stated that she has reviewed the report along with the Department's response, and recommends that the Commission accept the report.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Scalici to approve Exhibit C. Motion carried on a unanimous voice vote.

Six Month Internal Audit Follow-up (Exhibit D) – Jerry Jones

Mr. Jones stated that this report reflects the status of the Department's actions to implement the recommendations covered in the reports as of December, 2005. This report reflects one outstanding Internal Audit, and as you can see from the current responses, the Department is continuing to work on implementing the report recommendations.

Mr. Jones recommended that the Commission accept this report and asked for questions; none were forthcoming.

Mr. Jones then called on Commissioner Brosnan for her response.

Commissioner Brosnan stated that she has reviewed the report along with the Department's response, and recommends that the Commission accept the report.

Chairman Wahby entertained a motion. Motion was made by Commissioner Brosnan and supported by Commissioner Scalici to approve Exhibit D. Motion carried on a unanimous voice vote.

VI. **PUBLIC COMMENTS**

Chairman Wahby asked if any member of the audience wanted to address the Commission.

Mr. Chester Lockwood of Perrinton, Michigan addressed the Commission regarding his families' land that MDOT purchased in 1999. Mr. Lockwood would like to buy back the remaining unused portion of land at fair market value.

Chairman Wahby deferred to Patrick Isom to respond.

Mr. Isom responded that the department has declined this offer on previous occasions due to a foreseeable need for this property—this is not unusual. From the Commissions' standpoint the normal way to deal with excess property would be if the department asked for Commission approval to sell it, but normally the Commission wouldn't initiate the sale of excess property and override the expertise of staff.

Chairman Wahby also responded that that has been our mode of operation on that.

Mr. Lockwood stated that he is only talking about 30 acres and he doesn't understand how the state can clamp onto that and say that they can't let it go because they might need it in the future.

Mr. Isom stated that he could not go into the details of it.

Mr. Steudle interjected that this is part of the future 127 corridor and we believe there is a significant transportation use for that. Until we get to the final point of the freeway, we feel that it is appropriate for us to keep the land. We paid full market value for it originally; it is under our title at this point, and we do have an intended use for it, although not tomorrow, it will be used in the future.

Mr. Lockwood stated that the overpass has already been built and is approximately ¼ mile away from the property. He can see that the road is not going to go across the property; it's going to go under the overpass.

Mr. Steudle answered that he didn't know the details other than the fact that it is part of the corridor and the department has said they have transportation use for the land.

Mr. Lockwood stated that he would like for the Commission to look over his information.

Chairman Wahby informed Mr. Lockwood that he could have to provide that information to the MDOT Attorney General's office as we do not get involved in any of the legal aspects without going through them.

Mr. Isom clarified for Mr. Lockwood that this has already been reviewed with the department and their view, as has been expressed by Director Steudle, is that they need the property. Mr. Isom further asked Mr. Lockwood to not have the expectation that he would look at the information and change what has already been decided.

No other public comments were forthcoming.

Chairman Wahby asked if any Commissioner wanted to address the Commission.

Commissioner Brennan suggested that the Commission hold a workshop pertaining to the current picture and future picture of cash flow projections for bonding.

Chairman Wahby stated that he would work with Mr. Kelley to put something together.

No other comments were forthcoming.

ADJOURNMENT

There being no further business to come before the Commission, the Chairman declared the meeting adjourned at 11:15 a.m.

The next full meeting of the Michigan State Transportation Commission will be held on April 27, 2006, in the Bureau of Aeronautics Auditorium in Lansing, Michigan, commencing at the hour of 9:00 a.m.

Frank E. Kelley
Commission Advisor